

ENVIRONMENTAL ISSUES AFFECTING CCT DEVELOPMENT

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Legislative Issues Relating to CCTs

While no final legislative schedule has been set for the new Congress two issues with strong environmental ramifications which are likely to affect the coal industry seem to top the list of closely watched debates in Washington - the Environmental Protection Agency's proposed new ozone and particulate matter standards and utility restructuring.

EPA's Proposed New Ozone and Particulate Matter Standards

Background

On November 27, 1996, the EPA proposed new encompassing air quality standards for ground-level ozone (smog) and particulate matter (soot), based on evidence of harm to human health and the environment.

Compared to the existing standards, these new standards are much more stringent. The EPA believes these new standards are necessary in order to meet the Clean Air Act's requirement that air pollution not adversely affect public health.

EPA and a board of independent scientists have reviewed 86 particulate matter related health studies, covering millions of people, that showed harmful effects from breathing particles at the current standard. Another 185 of the latest ozone-related studies on human health were also reviewed. All of them showed harmful effects from ozone at the current standard, including 1.5 million incidences a year of significant respiratory problems.

The proposal is based on a thorough review of the best available science and the EPA expects to hear from a wide range of interested parties, from scientists and environmentalists to industry experts, small business owners, doctors and parents, in order to receive the broadest possible public comment and input on this important issue. Stricter limits for urban smog and soot would

prevent as many as 20,000 premature deaths each year and relieve the suffering of millions of Americans afflicted with asthma and respiratory diseases.

Public Comment

There will be a 60-day formal comment period for each of the rules being proposed. The purpose of the comment period is to reach out to all stakeholders in order to obtain the best information available for determining the appropriate final standards. There will also be an EPA sponsored public hearing.

Congressional Review of Regulations

Once a final regulation is issued, it will be among the first major environmental rules reviewed by Congress under the new Small Business Regulatory Enforcement and Fairness Act. Under this legislation, enacted in March 1996, federal agencies promulgating major rules must submit to each House of Congress and the Comptroller General a copy of the rule and the cost benefit analysis of it. Before the rule can take effect, Congress is given 60 legislative days to pass a joint resolution of disapproval. A resolution of disapproval would prevent the EPA from implementing the new standards or from issuing them in substantially the same form. Such resolutions are subject to the presidential veto power and it would take a two-thirds majority in each chamber to prevent the implementation of new standards. Basically, Congress gave itself veto power over new regulations. Many stakeholders are opposing the new standards, claiming they are expensive, unnecessary and hurtful to the economy. Already stakeholders are making appeals to Congress to intervene. Aggressive and expensive lobbying efforts are in place.

Other Legislative Options

As the administrative rulemaking process proceeds, Congress can conduct oversight and consider use of the appropriations process to influence the EPA. The FY97 appropriations conference report for the EPA contained language expressing the committees misgivings concerning new particulate matter standards even before the EPA proposal was released. Congress could also revisit the Clean Air Act and enact amendments to it that target the ozone and particulate matter standards. That process would occur in the authorizing committees - Senate Committee on Environment and Public Works and House Committee on Commerce.

EPA has reached out to Congress to get their views on the proposed rule. Briefings have already been held on Capitol Hill with staff and it is expected that the EPA will continue to be forthcoming during this process. All comments by stakeholders will be addressed and since this is a very complex process it could take some time. It remains to be seen whether or not the entire matter can be resolved during the 105th Congress, particularly in light of the symbolic legislative changes pertaining to promulgating federal rules.

Utility Restructuring

The House Commerce Committee and the Senate Energy and Natural Resources Committee are both involved in another intense debate in Washington - Utility Restructuring. At issue is the right of every consumer to choose their own provider of electric power. Some people contend that competition in the electric power industry is coming, just as it has for the telecommunications industry.

The House and the Senate have both been working on legislation that gives consumers choice of electric service. The Clinton administration began holding hearings around the country on competition and is currently drafting legislation. Many states have already announced plans to implement some degree of consumer choice.

Democrats strongly believe we should develop our energy resources in ways that will not cause harm to the environment, the consumer or the taxpayer. Conservation is a critical element of our energy policy.

According to the Senator Dale Bumpers of Arkansas the ranking member of the Energy and Natural Resources Committee, "Properly handled, greater competition in the electricity industry should lead to greater customer choice and lower electricity prices -- just as competition has in the long-distance telephone business. Improperly handled, it could lead to higher prices for some customers and the loss of some customer services."

The bottom line is that any legislation Congress passes must benefit the public as a whole and not just the utility companies and their largest industrial customers.